SUPREME COURT, U.S.

NO. 71-255

# In the Supreme Court of the United States

OCTOBER TERM, 1971

MARGARET E. THOMPSON,

Petitioner,

vs.

THE COUNTY BOARD OF SCHOOL TRUSTEES OF DU PAGE COUNTY, ILLINOIS, ROBERT R. KIMBELL, PRESIDENT, MERRILL GATES, EX OFFICIO SECRETARY, AND COUNTY SUPERINTENDENT OF SCHOOLS AND DISTRICT BOUNDARY STUDY STEERING COMMITTEE, D. N. METTA, CHAIRMAN,

Respondents.

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PEOPLE OF THE STATE OF ILLINOIS EX REL. MARGARET E. THOMPSON,

Petitioner,

vs.

COUNTY BOARD OF SCHOOL TRUSTEES OF DU PAGE COUNTY, ILLINOIS, MERRILL GATES, EX OFFICIO SECRETARY AND SUPERINTENDENT, EDUCATIONAL SERVICE REGION, MICHAEL BAKALIS, SUCCESSOR TO RAY PAGE, SUPERINTENDENT OF PUBLIC INSTRUCTION, STATE OF ILLINOIS, BOARD OF EDUCATION, SCHOOL DISTRICT 53, BOARD OF EDUCATION, SCHOOL DISTRICT 57, COUNTY BOARD OF SUPERVISORS OF DU PAGE COUNTY, ILLINOIS AND RUTH TEST,

Respondents.

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## PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, SECOND JUDICIAL DISTRICT

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# INDEX.


| | PAGE |
|---|---|
| Opinion Below | 2 |
| (See Appendix E, infra, p. App. 35.) | |
| Jurisdiction | 2 |
| Questions Presented | 2 |
| Statutes Involved | 9 |
| Statement of the Case | 9 |
| Statement of Case in Courts | 14 |
| Reason for Granting the Writ | 24 |
| Conclusion | 25 |
| Appendix A— | |
| Chap. 122, Ill. Rev. Stat. | App. 1 |
| Sections 2-3.7, 2-3.8, 3-10, 6-18 | App. 1 |
| Sections 6-19, 7-1 | App. 2 |
| Sections 7-3, 7-6 | App. 3 |
| Section 7-7 | App. 6 |
| Section 7-8 | App. 8 |
| Administrative Review Act of 1945, as amended: | |
| Sec. 264 | App. 8 |
| Secs. 272, 270 | App. 10 |
| Sec. 274 | App. 11 |
| Chap. 110A, Ill. Rev. Stat., Sec. 291 | App. 12 |

PAGE

Appendix B—

Trial Court Opinion ..... App. 13

Supreme Court Opinion and transfer ..... App. 13

Final Judgment of Supreme Court on transferring to Appellate Court ..... App. 14

Appendix C—

Appellate Court final judgment on People Ex Rel. Margaret E. Thompson v. County Board, et al., Case No. 70-155. (mini-order, not certified) ..... App. 17

Petitioners letter to Clerk of Appellate Court, requesting final judgments of that Court in both captioned cases ..... App. 18

Final Judgment of Appellate Court in People Ex Rel. Margaret E. Thompson v. County Board et al., Case 70-155, (not served on any party) ..... App. 23

Appendix D—

Opinion of State Superintendent of Public Instruction ..... 25

Final Order of County Board of School Trustees appealed from in, Margaret E. Thompson v. County Board, et al., affirmed by Opinion on Page 2 of Petition ..... App. 29

Resolutions of Boundary Study Steering Committee ..... App. 32

PAGE

Appendix E—

Opinion of the Appellate Court sought to be reviewed ..... App. 35

Denial of Petition for Leave to Appeal by Supreme Court of Illinois ..... App. 40

Motion to Reconsider Petition for Leave to Appeal Denied ..... App. 40

Final Judgment of Appellate Court in Case No. 70-80, Supreme Court Case No. 44038 as sent to the Circuit Court on April 29, 1971, not served on any party ..... App. 40
(Margaret E. Thompson v. County Board, et al.,)

Appendix F—

Final Order remanding prior petition for a boundary change to County Board to rehear on Merits, frozen by County Board on Resolution of Boundary Study Committee ..... App. 41

## TABLE OF CASES

Assn. of Data Processing v. William B. Camp, et al., 25 L. Ed. 2d 185 ..... 24

Barlow v. Collins, 25 L.Ed. 2d 192 ..... 22, 24

Rochester Telephone Corp. v. United States, et al., 307 U.S. 125, pp. 143, 144, 146 ..... 21

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## PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, SECOND JUDICIAL DISTRICT

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Petitioner prays that a writ of certiorari be issued to review the judgment of the Appellate Court of Illinois, Second Judicial District, entered in this cause December 18, 1970.

## OPINION BELOW

The opinion of the Appellate Court is reported at ..... Ill. App. 2d ....., and is reprinted herein as Appendix E, infra.

## JURISDICTION

The Opinion of the Appellate Court (Appendix E, infra) was entered on December 18, 1970. No Petition for rehearing was filed from that Opinion. A timely Petition for Leave to Appeal to the Illinois Supreme Court from the Opinion of the Appellate Court was denied on March 30, 1971, Appendix B, infra, the final judgment of the Appellate Court entered April 28, 1971, App. B, infra, a Motion for reconsideration was denied on May 20, 1971.

This Petition is filed within 90 days of the final order of the Illinois Supreme Court denying Motion for reconsideration.

The Jurisdiction of this Court is invoked under 28 U.S.C. 1257 (3).

## QUESTIONS PRESENTED

1) Where the statutes provide that the scope of review shall extend to all questions of law and fact in the record in the trial court may the Appellate Court rule on the cause of the complaint when it was not fully heard in the trial court without denying equal protection and due process of law as guaranteed by the Fourteenth Amendment to the United States Constitution.

2) Where the trial court failed to extend the review to all questions of law and fact in the record on appeal may the Appellate Court exercise original jurisdiction and rule on the merit and cause of the case without prejudicing the constitutional rights of the Petitioner.

3) May the Supreme Court of Illinois hold that civil rights under the State and Federal Constitutions is not a constitutional question without flaunting Petitioner's right under those constitutions.

4) Where the statute provides that a majority vote shall be required to decide a measure by the administrative agency and a majority of seven members would be four, may the Appellate Court hold that a majority vote of three is a final decision of said board when the matter was not presented in the trial court without denying equal protection of the law to Petitioner.

5) Where the statutes provide for two or more types of school district organization in the State may the legislature provide more State Aid per pupil to one type of organization than to the other without denying equal protection of the laws to Petitioner when she lives in districts that are granted a lesser amount of State Aid because of the type of organization.

6) Where the State Superintendent of Public Instruction has held that two school districts may not join together to perform a single service may the County Board of School Trustees and the Courts interfere with this judgment by allowing and affirming a boundary change based on a joint Petition, without denying equal protection of the law as guaranteed by the Fourteenth Amendment to the United States Constitution.

7) Where the mailing receipts of the Clerk of the Trial Court are in the record on appeal, showing true evidence that the proper parties were served a complaint and summons within the proper time, may the Appellate Court hold that Petitioner did not join the proper parties without interfering with judicial fair play as guaranteed by the United States Constitution.

8) Where the records disclose that an attorney of record has failed to disclose who he is representing before the administrative agency may the Appellate Court hold that Petitioner has not joined the necessary parties when the trial court ruled without seeing those records, without denying due process and equal protection of the law as guaranteed to Petitioner by the United States Constitution.

9) When there is a controversy over what the complaint is about may the trial court rule without evidence and without the report of proceedings of the administrative agency without denying equal protection of the laws as guaranteed to petitioner by the Fourteenth Amendment to the Constitution of the United States.

10) Where a school boundary change depended on freezing a mandate of the Appellate Court on hearing a prior case on its merits, may the Appellate Court affirm that boundary change without flaunting Petitioners' constitutional rights under the United States Constitution.

11) Where the State Superintendent of Public Instruction is authorized by law to determine controversies under the school law and he has held that two school districts may not join together to perform a single service when their boundaries are not co-terminus may the County Board of School Trustees grant such a joint action in performance of a single service without denying to Petitioner the right to Petition the Government for redress of grievance as guaranteed by the First Amendment to the Constitution of the United States.

12) Where a boundary change in one Petition is a companion to and dependent on a boundary change in a second Petition before the same County Board of School

Trustees may they be considered as separate and unrelated legal actions without denying due process and equal protection of the laws to objectors.

13) Where one case offers proof of another before the Appellate Court at the same time between the same parties may the Appellate Court fail and refuse to take official Notice of the relation of the two cases without denying equal protection of the laws as guaranteed by the United States Constitution.

14) May the Supreme Court of Illinois refuse to exercise its authority and supervision of the lower courts where there is overwhelming evidence that the lower courts are not compelling compliance of court orders without denying to petitioner equal protection of the laws as guaranteed by the United States Constitution.

15) Where the statutes provide that all controversies under the school law shall first go to the County Superintendent of Schools (1) (Note: Changed by statute to Superintendent of educational service region with the same power and duties.) and appeal may be taken to the State Superintendent of Public Instruction, who shall hear and determine the controversy may the Courts ignore these decisions without denying equal protection of the law to Petitioner.

16) Where the law provides that the State Superintendent is legal advisor to all school officers and the County Superintendent must carry out this advice may the school officers including the County Superintendent ignore this advice without denying to Petitioner equal protection of the law as guaranteed by both state and federal constitutions.

17) Where the statute confers the power and authority to hear and determine controversies to the State Superintendent may the Attorney General of the State refuse to enforce those decisions without interfering with equal protection of the law as guaranteed by the Fourteenth Amendment to the United States Constitution.

18) Where the law provides for overlapping dual school districts may the elected officials of two school districts join together to perform a single service such as a unit district when the area of one district does not correspond with the service area of the other while Petitioner lives in one district but not in the other without denying to Petitioner a republican form of government as guaranteed by Article Four, Section Four of the United States Constitution.

19) Where the statutes provide for State Aid to school districts on an assessed value per pupil basis may the statutes provide more State aid per pupil in a Unit District. (grades one through twelve), than in overlapping dual districts (elementary districts grade one through eight and high school districts grades nine through twelve), without denying equal protection of the laws and the right of an equal opportunity to an education to the pupils in the dual districts as guaranteed by State and Federal Constitutions.

20) May two school districts jointly petition to change their boundaries when the territory being detached from one and annexed to the other is under court jurisdiction as to ownership, and the ownership is affected by the boundary change, without denying to Petitioner equal protection of the law as guaranteed by the United States Constitution.

21) Where the statute provides that boundary changes made be petitioned by school boards, or by residents (legal voters), or where there are no residents by property owners, may the County Board of School Trustees grant the school boards the right to freeze all boundary changes so that they can have exclusive right to determine boundary changes without prejudicing the rights of Petitioner to equal protection of the law.

22) Where the statutes provide that the County Board of School Trustees shall hear and determine boundary changes, may they grant to school boards the right to join together to make many boundary changes where each is a companion to and dependent on the other without denying due process and equal protection of the law.

23) Where the statute provides that the answer to a complaint for administrative review is the complete record of proceedings and evidence had before the administrative agency, may the trial court grant a motion to dismiss or any other answer by the administrative agency or other parties without denying due process of law and equal protection of the law as guaranteed by the Fourteenth Amendment to the United States Constitution to the complainant.

24) Where the statutes provide that Petitioner may apply for administrative review and the way to apply is to file a complaint for administrative review, may the trial court hold that Petitioner had to prove how she was affected before the review could be had when the entire review was about how she was affected without denying to Petitioner the right to a fair trial as guaranteed by the Fourteenth Amendment to the United States Constitution.

25) Where the law provides that the State Superintendent is legal advisor to all school officers may the State's Attorney defend these officers against the legal opinions of the State Superintendent without interfering with Petitioners' rights as guaranteed by both state and federal constitutions.

26) Where the statute provides that the Appellate Court shall give a reason in writing for their final decision, may they fail and refuse to do so without denying Petitioner due process of law as guaranteed by state and federal constitutions.

27) Where the law provides that administrative review shall be heard with all possible speed and extend to all questions of law and fact, may the trial court dismiss the complaint on one matter of fact without hearing the complaint, without denying due process of law to Petitioner.

28) Where the law provides that administrative review shall be heard with all possible speed and the defendant administrative agency and other parties have not answered Petitioners' brief for a summary judgment on the pleadings, may the trial court sit on the brief from November to now and beyond, without injuring Petitioners' rights to due process of law as guaranteed by both state and federal constitutions.

29) Where the staute provides and requires that an administrative agency appear and answer within thirty five days, and the administrative agency fails and refuses, may the courts continue to consider the agency a legal functioning branch of the government without denying due process of law not only to Petitioner herein but to all other parties to the proceeding.

30) Where the statute provides that there shall be seven members on the County Board of School Trustees and vacancies shall be filled within thirty days, and said

county board fails and refuses to fill two such vacancies, actually voting not to fill them, establishing a five-member board, may they continue to function without denying to Petitioner due process and equal protection of the laws as guaranteed by both state and federal constitutions.

31) May the Attorney General of Illinois defend the State Superintendent of Public Instruction against Superintendent's own legal opinion which is in favor of Petitioner without injuring Petitioner's rights under the state and federal constitutions.

32) Where the Appellate Court is the Court possessed of the record may the clerk of that court fail and refuse to prepare the record for a Petition for Writ of Certiorari to this court, without denying due process of law as guaranteed by the federal constitution.

## STATUTES INVOLVED

Chapter 122, Sections 2-3.7, 2-3.8, 3-10, 6-18, 6-19, 7-1, 7-3, 7-6, 7-7, 7-8, Ill. Rev. Stat.

In the Administrative Review Act, Chap. 110, Sections 264, 270, 272 (a) and (b), 274.

Chapter 110A, Section 291, parts (b), (c) and (e).

## STATEMENT OF THE CASE

This is an administrative review proceeding on school boundary changes questioning the validity of the policies and procedures of the respondents and questioning the validity of certain statutes involved in school boundary changes on the grounds that they deny to Petitioner due process and equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution; confiscates her property without due process of

law as guaranteed by the Fifth Amendment; denies to her the right to petition the government for redress of grievances as guaranteed by the First Amendment; and denies to Petitioner the right to a republican form of government as guaranteed by Article Four, Section Four of the United States Constitution.

Under Illinois law there are several types of school organization. We are here concerned with dual districts, separate but overlapping high school and elementary districts, where school boundary changes may be made by petitioning the county board of school trustees, by school boards, by legal residents, by property owners where there are no legal residents. Chap. 122, Sec. 7-1, Ill. Rev. Stat., Appendix, infra.

Under Illinois law we also have Unit Districts, grades one through twelve, with one board. Most of the districts in the State are Unit Districts.

The law also provides that where there is one high school district with boundaries coterminous with a single elementary district and the two districts hire a common superintendent that they will receive more state equalization aid than for separate districts, and less than for Unit districts. Chap. 122, Sec. 18-8.1, Ill. Rev. Stat. Basis for apportionment to co-terminous districts:

> "... the state equalization aid to the two districts shall be computed, first, as though they constituted a unit district and, second, as for separate districts, and the state equalization aid to be allowed shall be one half of the sum of the two state equalization aids computed. The excess of the equalization aid so determined over the amount which would have been allowed to the two districts as separate districts, shall be allocated between the two districts in proportion to the average daily attendance of each."

In DuPage County, Illinois we have still another type of school district organization for which there is no statutory authority. In the case at bar we have four high school districts. One, Lisle, is not considered because it is a co-terminous district. The other three by slow evolution over the years and many school boundary changes are organized as *de facto unit districts,* where the boundary of the high school district is not co-terminous with the underlying elementary district, they have joined together to hire a common superintendent, and operate as a unit.

Hinsdale high school district 86 is joined with Hinsdale elementary district 181. Petitioner lives in district 86 but not in district 181. Downers Grove District 99 is combined with District 58, Naperville high school district 107 is combined with district 78.

In 1966 Petitioner took the controversy of whether District 86 could continue to function in this matter on the grounds that her children were being denied an equal education, and the district was enabled to accumulate funds illegally to purchase land for a school site where there was no access of egress and ingress because of a recently declared freeway, on appeal to the State Superintendent under Chap. 122, Sec. 2-3.8, Ill. Rev. Stat. Appendix A, infra.

The Opinion of the State Superintendent, Appendix D, infra, gave Hinsdale three years to clear the matter up. That would have been June 1969, or the matter would have to be tried out in court.

Petitioner contends that the South Du Page Boundary Study Steering Committee was implemented by the high school districts because pressure was being exerted both by the Legislature in giving them less money and by a

desire to by-pass the legal opinion of the State Superintendent, that they had to function separately if their boundaries were not coterminous.

The Steering Committee consists not only of the four high school districts with their four joined elementary districts it also consists of representatives from thirteen other separate underlying elementary districts, some of which underlie two of the high school districts.

In March of 1969, at a joint meeting of representatives and superintendents the committee passed all motions shown on Appendix D, infra, and they became resolutions.

On April 7, 1969, at a public hearing wherein Petitioner objected, the County Board of School Trustees accepted the resolution of the Boundary committee, to freeze all school boundaries even those under litigation. They granted to the school districts the right to engineer a swap of land (you take this and I'll take that), that the petitions would be companion petitions but that the county Board would consider them separately.

Trial Court Record, R1, Page 11:

> "Mr. Gates: Maybe the point that Mrs. Thompson makes ought to be repeated and that is that this petition (the one under prior court litigation remanded to be heard on its merit), could be matched with a petition but this petition, whatever we do with it, would rule out the possibility of involving the territory in another petition for one year. (Chap. 122, Sec. 7-8, Appendix, A, infra.) This petition could remain intact and be granted or denied but to substitute would be an illegality.

Mr. Kimbell: Well, I mis-spoke originally on the subject and I'm afraid that what's started it, but assuming for the sake of conversation that the other half of the package is the transfer of some land the other way. Now this petition that we now have can remain before us as it is and be acted upon as a single petition when we finally get down to having our rehearing on the merits and reaching a decision. Presumably at that same meeting we would have another hearing on the companion petition . . . "

The Petition continued and was frozen so that a land swap could be made to detach land from Downers Grove District 99 and 58 and attach it to Hinsdale District 86 and Butler District 53 wherein Petitioner is a resident. The land swap involved in rearranging the boundaries in all three high school districts so the six or eight hundred acres of vacant land abutting Petitioner would be swapped to Downers Grove School District so that a portion of Oak Brook wherein the children attend school in Downers Grove would be allowed to attend elementary school in Oak Brook and high school in Hinsdale. This case was started in 1965 and has never been heard on its merit. Most of the territory in that petition at the time it was filed was an undeveloped subdivision in Oak Brook. Although the petition was filed by residents, when the case went into Court as *Clem Stein, et al.* v. *The County Board of School Trustees,* 40 Ill. 2d 477, the Petitioners were nominal plaintiffs, the attorneys were representing the developer, so, when it was remanded back for re-hearing on the merit the attorneys never identified who they were representing and none of the original Petitioners appeared at these hearings before the County Board.

In Report 1 pages 6 and 8 of the trial court record in case Number 44038, Petitioner was the only resident as a party to the hearing, the other parties were school Board's

plus the attorney who did not identify the party he was representing. Petitioner presented facts and evidence in favor of granting that petition and not freezing it for a land swap. One of the companion petitions was heard by the County Board of School Trustees on July 7, 1969. The Petition was denied on a three to two vote. Petitioner objected that her constitutional rights were denied. (Trial Court Record Case No. 69-1805 G, Supreme Court Case No. 44038, Report 3, pp. 34-39).

When a meeting was scheduled to decide a motion for rehearing Petitioner was told that her original testimony would not be included if rehearing was granted contrary to Sec. 264, Chap. 110, Ill. Rev. Stat., Appendix A, infra, and that she would not be permitted to testify again. The first case was filed in the trial court on August 19, 1969, and served on the County Board before the Motion for Rehearing was heard.

## STATEMENT OF THE CASES IN THE COURTS

School law in Illinois is very complicated and very specialized, controversies under this law are supposed to be decided by the State Superintendent as stated above.

On the Opinion of the State Superintendent, Appendix D, infra, both the State's Attorney of DuPage County (C-74) and the Attorney General of Illinois (C-86) had been given first right of refusal to file a proper suit in Quo Warranto against Hinsdale District 86. Both were given evidence of testimony under oath that the school districts were involved in the land sought to be swapped in these petitions (C-78, C-79), both refused.

Both the State's Attorney and the Attorney General at that time stated that they had no authority in school mat-

ters and later Petitioner obtained a confirmation of this from the State Superintendent through the County Superintendent (App. Ct. Record, Case No. 70-155, page 37).

So, when the original complaint was dismissed the State's Attorney had not been present at any of the hearings, did not know what the case was about, did not know anything about school laws, knew even less about the administrative review laws, and alleged that Petitioner had not appeared at the hearings before the County Board, which was false. He alleged that Petitioner had not joined the proper parties which was also false.

The trial court could not grasp the idea that the law provided that the parties be served by registered mail by the clerk of the trial court on the affidavit of Petitioner attached to the complaint and summons (C-11, C-12, Trial Court Record, Case No. 69-1805 G). The trial court ruling on page 10, Report 4, the same record:

> "The Court: Well, this does not make them party-defendant, of course. Putting them on a sheet of paper and calling it an affidavit does not make them a defendant."

Petitioner contends that she is seeking relief from the County Board of School Trustees and the County Superintendent of Schools, not from the school districts; that the school districts are not responsible for nor can they answer for the County Board or County Superintendent; that they were served with the complaint and summons as provided by law; that they did not want to appear because they would have to answer questions to the court.

On the same page Petitioner tried to present to the Court the defect in the law, that school boards might be granted authority to petition although not jointly but Chap.

122, Sec. 7-6, Ill. Rev. Stat., did not give them authority to appear and testify at the hearing, if they could not testify at the hearing they could not be parties to the proceeding nor to the judicial review:

> "Mrs. Thompson: . . . It does not say a school board may testify.
>
> The Court: What do you mean, 'a school board may testify'?
>
> Mrs. Thompson: Is a corporate authority a person?
>
> The Court: It surely is."

However the law only gives residents the right to appear at the hearing and residents are defined as legal voters. The school boards could not possibly be considered legal voters.

The trial court knew perfectly well what the Petitioner was talking about on the original complaint (Report 4, p. 9):

> "The Court: Well, she has a rather tenuous affectation here. Her argument is somewhat novel. She says that this switch over at this end will affect them over at that end. That's about what it amounts to."

The trial court dismissed the original complaint to give me 30 days to comply with the law, but, admitted that it did not know what the law was, contrary to Chap. 110, Sec. 275 (c), the trial court is required to say on what law they based their decision.

When Petitioner could not get the records of the hearings needed for review she appended as much of the necessary evidence as was possible to prove that she did have standing and that both she and her school districts were affected.

A Motion to dismiss was filed by the State's Attorney and a counter Motion to dismiss the State's Attorney as counsel for the defendants came before the trial court on November 7, 1969 on the amended complaint (C-107-109, C-11, C-112, Trial Court Record).

Petitioner objected that in the complaint all that was necessary was to allege that she was affected. That the proof of how she was affected was in the record (Report 4, p. 25, Trial Court Record):

> "Mrs. Thompson: I alleged it at the hearing. If he brings forth the record he will see how I said I am affected."

On pages 27 and 28 of the same record Petitioner explained to the Court that the boundary change in question was only a part of the picture that other land was going to be swapped which would damage her. The litigation over the ownership of the Healy land was a notorious court case, having been in the courts for five years, the court was familiar with it and the final decree was made only three days prior in that court (Sup. Ct. Rec., Case No. 44038, Rec. 4), and there was evidence in the complaint that some school districts who were joined in the boundary study had options on the land under the trust (C-78, C-79, Trial Court Record), that the Party who gave that testimony under oath at a zoning hearing was representing the same developer who owned the land in the original boundary change petition under litigation also since 1965 that was frozen on April 7, 1969. This fact of school district involvement does not show in the final decree of the court on ownership of the land, it is under a trust and still has not been revealed at this writing, but there are those who know:

> "I think some others are aware of this, and I would be violating a confidence if I told you the price that

was being discussed or the property or the parties involved." (C-78, C-79).

The above testimony was given on September 6, 1966. The land went into trust in October, 1966.

The trial court dismissed the case on the assumption that Petitioner was not a resident of a district involved. Refused to hear Petitioner's counter motion that the State's Attorney could not represent school officers.

Direct appeal was taken to the Supreme Court of Illinois. That court transferred the case to the Appellate Court for lack of a constitutional question (Appendix B, infra), before the brief was filed along with Petitioner's Motion to include a certain bond issue in the record. The Brief had to be filed in the Supreme Court because of the 21 days between their decision to transfer and the actual transferral. The Appellants' Brief had to be filed before the Motion could be presented to the Appellate Court and so Motion was abandoned.

In Appellant's Brief, pages 3-4:

"

I.

Should the defendants be permitted to deny Plaintiff the right of review on the grounds that she was not a resident in an affected district Plaintiff will have no recourse under the law, equal protection of law or due process.

* * *

II.

The procedures of the trial court were arbitrary and capricious and denied Plaintiff a fair trial."

On page 5 of the same brief, in the statement of facts:

"Both the defendants and the committee, state that local control should not be done by residents, self determination . . .

> "In order to obtain essential efficiency, . . . to put less emphasis on self determination. The consultants state 'the theory of local determination of administrative units is not defensible this day and age'." (Also on pp. C-41, C-42, Trial Court Record).

The Appellant's Brief was filed on April 8, 1970. On April 7, 1970, the County Board of School Trustees granted another joint Petition of Elementary districts 57, Westmont and District 53, Butler (Oak Brook), which detached territory from Petitioner's district. The territory detached was the same Healy land named above. The land is vacant. The school districts agreed to change the boundaries so the prospective owner could get very dense zoning and would therefore be able to buy the land, in exchange the school district would get a school site and the original petition that was frozen would be granted.

Petitioner appeared at the hearing and objected, that the land ownership was still under jurisdiction of the trial court, that District 53 was involved in a prior boundary change so the Petition was invalid, Chap. 122, Sec. 7-8, Ill. Rev. Stat., among many other objections, that the boundary change was making possible zoning that would utterly destroy her property. The would-be owner did not appear. District 53 board did not appear. The County Board of School Trustees had only five members instead of seven, having voted not to fill vacancies contrary to Chap. 6-19, Ill. Rev. Stat. (Appendix A, infra).

Petitioner objected to the report on the financial condition of the schools, that the county superintendent had the duty to examine school treasurer's books once a year which he was failing to do and that there was evidence that District 53 and possibly District 86 and 181 were involved in options on this land.

The County Board of School Trustees is supposed to hold the title to all school sites and land so Petitioner requested that the board investigate.

The Petition was granted. Petitioner appealed to the trial court which has appellate jurisdiction on administrative review, May 17, 1970 (Trial Court Record, 70-1204 G; App. Ct. Record, 70155).

On May 20, 1970, Petitioner on her own Motion, with due notice to all parties, informed the trial court that the county board of school trustees had vacancies, that the financial facts given were not true and correct. (Trial Court Record Case No. 70-1204 G, C-17, C-18), asked the court to remand the matter back to the county board and compel them to fill the vacancies and compel them to get the financial information or in the alternative to grant to Petitioner a court order so she could get the records of the proceedings and financial information so the court could review the matter. The Court refused to hear the motion on the grounds that it was premature.

At that hearing the trial court held that it did not know what the answer was in administrative review contrary to Chap. 110, Sec. 272, Ill. Rev. Stat. and Supreme Court Rule 291(e) (Appendix A, infra); that it did not know who paid for the report of proceedings of the administrative agency, contrary to Chap. 122, Sec. 7-6, Ill. Rev. Stat. (Appendix A, infra); that it could not tell by Chap. 110, Sec. 273, 270, when the record should be filed or when the record should be paid for.

On June 23, 1970, the trial court entered an order on the motion of Merrill Gates and county board of supervisors to give them 30 days to answer or otherwise plead (C-21, 22, 23, Trial Court Record Case No. 70-1204 G).

Petitioner objected that the County Board was the administrative agency possessed of the record, that they were a non-functioning board, that the State's Attorney was stalling so newly elected officers could be seated on July 6, that the county board was in default for not appearing, that the State's Attorney could not represent a public officer in a private capacity.

On June 24, 1970, the Notice of Appeal was filed. On June 30, 1970, a Motion was filed by the Attorney General of Illinois for the State Superintendent of Public Instruction to be allowed to answer (C-31, C-32, Trial Court Record 70-1204G). On July 2, 1970, the trial court approved the records for appeal and held that a Motion could not be heard in the trial court when it was filed after the Notice of Appeal. The State Superintendent was in default for not having appeared within the specified time. (Chap. 110, Sec. 270, Supreme Court Rule 291, Ill. Rev. Stat.). The court also dressed the State's Attorney down for coming to the Judge's chambers before the hearing and asking him not to approve the records.

On August 8, 1970 the Appellate Court dismissed the appeal on their own motion (Appendix B, infra), without stating their reasons contrary to Chap. 37, Sec. 41, Ill. Rev. Stat. and did not serve their final judgment on the parties to the proceeding in that court.

Petitioner objected in the Appellate Court that the order appealed from turned administrative review into a trial de novo. Petitioner cited *Rochester Telephone Corporation v. United States, et al.*, 307 U.S. 125, pp. 143, 144, 146, that the order appealed from was no mere interlocutory order and that Petitioner was being denied due process of law (Appellate Court Record, Case No. 70-155, page 2 of Objections).

The Mandate of the Appellate Court (Appendix B, infra) was returned to the trial court after 21 days. Petitioner waited 30 days for Merrill Gates or County Board of Supervisors to answer, when they did not she asked the court for a summary judgment on the pleadings in October 1970 and on court order filed a Brief on the questions of law on November 16, 1970. No party has answered that brief and the trial court even though they have appellate jurisdiction, has not given an opinion on the brief to this date contrary to Chap. 110, Sec. 274, Ill. Rev. Stat. (Appendix A, infra), "in all convenient speed."

On December 18, 1970 the Appellate Court entered their opinion (Appendix E, infra, on the first case, 70-80). Petitioner asked for a copy of their final judgment. No answer was received. Petition for leave to appeal was filed in the Supreme Court on February 10, 1971 (Supreme Court Record Case No. 44038, page 3, Rec. 1). Petitioner cited that the Appellate Court decision was contrary to *Association of Data Processing* v. *William B. Camp, etc.*, U.S. Supreme Court 25, 1 Ed. 2d, page 191, that the complaint had not really been heard in the trial court; that the Appellate Court had abused their statutory authority, denying her rights under both federal and state constitutions, in that they had not complied with Chap. 37, Sec. 41, Ill. Rev. Stat. in Case No. 70-155, and that they had ample evidence in the record that what she was saying not only had happened but was true.

The Supreme Court of Illinois denied the Petition for Leave to Appeal on March 30, 1971. The Appellate Court entered their final judgment on April 28, 1971 (Appendix B, infra). Someone unknown to Petitioner took the Mandate before the trial court on April 29, 1971 and recorded it. Petitioner does not know what the trial court ordered at that time.

A Petition for Rehearing was timely filed in the Supreme Court of Illinois, changed to a Motion for reconsideration by that court, a supplement to the Motion with an alternative motion to stay the Mandate for appeal to this court was also filed.

The final decree to the ownership of the land of the trial court was appended to the supplemental Motion (Supreme Court Record, Case No. 44038, Rec. 4), giving ample proof to the Supreme Court of Illinois what was going on.

The Motion was denied on May 20, 1971, the same date of the tax cases No. 43928, the same date that the trial court entered orders nunc pro tunc, without Notice to Petitioner, dismissing the tax cases.

Since Petitioner had been denied a trial on absolutely everything in the trial court and the State's Attorney and the Attorney General had refused to file a suit in Quo Warranto, Petitioner tried once more on a Petition for Redress of Grievance, Case No. 44360, to get the Supreme Court of Illinois to call up the records of the Courts below and give judicial review. This was denied on May 25, 1971. After Petitioner filed the Petition she received copies of the orders entered in the trial court entered nunc pro tunc, and a Motion for reconsideration of the Petition for Redress of grievances was filed, with the trial court orders attached. This was denied on June 24, 1971.

## REASONS FOR GRANTING THE WRIT

The Courts in Illinois have acted in this matter contrary to the policy of this court established in both, *Barlow* v. *Collins*, 25, 1 Ed. 2d 192, pp. 198-199, *Association of Data Processing Service* v. *William B. Camp, Comptroller of Currency*, 25 L. Ed. 2d pp. 185-186.

The Appellate Court Opinion shows on its face that Petitioner had alleged other injuries to give sufficient cause for the case to have been brought.

The mailing receipts were in the record showing who the Clerk of the Trial Court served the Complaint and Summons on. The School Districts were served, and that is what the State's Attorney was denying falsely.

The Appellate Court as well as the other courts in Illinois are completely prejudiced in the matter of joining parties. In the tax cases 43928 in the Supreme Court of Illinois, the State's Attorney had the duty to notify these same taxing bodies as school districts, and he not only failed, he refused and the courts let him get away with this.

The High School Districts in this case are still illegally organized and hopelessly bogged down in reaching a solution, which is very disastrous for the children of this State. You can't get an equal education even when you are all white.

In the above cited cases this court has held, even though those decisions were handed down after Petitioner objected in the trial court, that it is sufficient to allege injury, economic or otherwise, that whether the violations did in fact cause injury was the merit of the case and that would have to be heard in the court below.

It is submitted that the facts in the records show that Petitioner does have the standing to bring this case to court and that the records show manifest injustice to Petitioner.

It is submitted that Petitioner has exhausted the possibility of obtaining justice in the Illinois Courts.

It is submitted that the County Board of School Trustees lacked jurisdiction to freeze a court order which they did on the original petition.

It is submitted when the highest court in the State allows and permits the lower court final judgments to be flaunted and disregarded that no one in Illinois can have any security in the courts.

It is submitted that this court is the only refuge left to Petitioner to obtain redress of grave injustices not only to her property but to the education of children in Illinois.

## CONCLUSION

For the foregoing reasons, Petitioner Prays that this Court issue its Writ of Certiorari to review the judgments of the Appellate Court of Illinois, Second District or any other writ that is legal and proper, in these cases.

NOTE:—The Appellate Court of Illinois, Second District, the court possessed of the records, including the trial court record has failed and refused to properly prepare the record for appeal on Certiorari. The trial court records submitted are Petitioner's copies.

Respectfully submitted,

MARGARET E. THOMPSON,
Box 133,
Hinsdale, Illinois 60521
*Petitioner*

## APPENDIX A

Chapter 122, Sections 2-3.7, 2-3.8, 3-10, 6-18, 6-19, 7-1, 7-3, 7-6, 7-7, 7-8, Ill. Rev. Stat.:

Sec. 2-3.7. *Legal adviser of school officers—Opinions.* To be the legal adviser of school officers, and, when requested by any school officer, to give his opinion in writing upon any question arising under the school laws of the State.

Sec. 2-3.8. *Hear and determine controversies.* To hear and determine all controversies arising under the school laws of the State, coming to him by appeal from a county superintendent of schools.

Sec. 3-10. *Controversies—Opinion and advice—Appeal.* In all controversies arising under the school law, the opinion and advice of the county superintendent shall first be sought, whence appeal may be taken upon a written statement of facts certified by the county superintendent to the Superintendent of Public Instruction.

Sec. 6-18. *Meeting dates—Place—Quorum.* The county board of school trustees shall hold regular meetings on the first Monday of July, October, January and April; however, in case the first Monday of any of the aforementioned months falls on a legal holiday the regular meeting shall be held on the next day.

All regular meetings of the board shall be held at the office of the county superintendent of schools.

Special meetings may be called by the president or by 4 members of the board by giving a 48-hour written notice of the meeting stating the time and place of the meeting and the purpose thereof. *Public notice of meetings must*

*also be given as prescribed in Sections* 2.02 *and* 2.03 *of "An Act in relation to meetings", approved July* 11, 1957, *as heretofore or hereafter amended.*

Four members of the board shall constitute a quorum. Unless otherwise provided a majority vote of all the board shall be required to decide a measure. (Amended by L. 1967, H.B. 478, approved July 24, 1967.)

Sec. 6-19. *Vacancy on county board.* Any vacancy on the county board of school trustees shall be filled by the remaining members until the next regular election when the vacancy shall be filled for the unexpired term. Removal of a member from the township from which such member was elected into a township which has its quota of members on the board shall constitute a vacancy.

Sec. 7-1. *Districts in one county—creating districts and changing boundaries.* New school districts lying entirely within any county may be created and the boundaries of existing school districts lying entirely within any county may be changed by detachment, annexation, division, dissolution or consolidation or any combination thereof by the county board of school trustees of such county when petitioned by the boards of each district affected or by a majority of the legal voters residing in each district affected or by two-thirds of the legal voters residing in any territory proposed to be detached from one or more districts or in each of one or more districts proposed to be annexed to or consolidated with another district. If there are no legal voters residing within the territory proposed to be detached from one or more districts, then the petition may be signed by all of the owners of record of the real estate of the territory.

Where there is only one school building in an approved operating district, the building and building site may not be included in any detachment proceeding unless petitioned by two-thirds of the eligible voters within the entire district wherein the school is located.

Sec. 7-3. *Limitation on change of boundaries when bond election pending.* No petition affecting the boundaries of any school district may be filed under this Article after the district has published the required legal notice calling an election to authorize the issuance of bonds to be held on a date not later than 21 days after such publication until the first of the following events shall have occurred (1) the voters did not authorize the issuance of the bonds at the election, (2) the bonds have been issued, (3) the school board of the district has adopted a resolution abandoning its plan to issue such bonds, or (4) seventy-five days have elapsed since such election, provided that if proceedings are pending hereunder affecting the boundaries of such district at the time the notice of such election is published or if the district is a party to litigation affecting the legality of its existence or its boundaries at such time, the said seventy-five days shall not begin to run until the final determination of such proceedings or litigation and the expiration of the time for review, appeal or rehearing, and provided that the provisions of this section shall be applicable only to the first such election called to be held in any one calendar year.

Sec. 7-6. *Petition filing—Notice—Hearing—Decision.* Upon the filing of a petition with the secretary of the county board of school trustees under the provisions of Section 7-1 or 7-2 of this Act the secretary shall cause a copy of such petition to be given to each board of any district involved in the proposed boundary change and shall cause

a notice thereof to be published once in a newspaper having general circulation within the area of the territory described in the petition for the proposed change of boundaries. When a petition contains more than 10 signatures the petition shall designate a committee of 10 of the petitioners as attorney in fact for all petitioners, any 7 of whom may make binding stipulations on behalf of all petitioners as to any question with respect to the petition or hearing and the county board of school trustees may accept such stipulation in lieu of evidence or proof of the matter stipulated. The committee of petitioners shall have the same power to stipulate to accountings or waiver thereof between school districts; however, the county board of school trustees may refuse to accept such stipulation. The petition may be amended to withdraw not to exceed a total of 10% of the territory in the petition at any time prior to the hearing; provided that the petition shall after amendment comply with the requirements as to the number of signatures required on an original petition. The petitioners shall pay the expenses of publishing the notice and of any transcript taken at the hearing and in case of an appeal from the decision of the county board of school trustees appellants shall pay the cost of preparing the record for appeal. The notice shall state when the petition was filed, the description of the territory, the prayer of the petition and the return day on which the hearing upon the petition will be held which shall not be more than 15 nor less than 10 days after the publication of notice. On such return day or on a day to which the county board of school trustees shall continue the hearing the county board of school trustees shall hear the petition but may adjourn the hearing from time to time or may continue the matter for want of sufficient notice or other good cause. Prior to the hearing the secretary shall submit to the county

board of school trustees maps showing the districts involved, a written report of financial and educational conditions of districts involved and the probable effect of the proposed changes. The reports and maps submitted shall be made a part of the record of the proceedings of the county board of school trustees. A copy of the report and maps submitted shall be sent by the secretary of the county board of school trustees to each board of the districts involved, not less than 5 days prior to the day upon which the hearing is to be held. The county board of school trustees shall hear evidence as to the school needs and conditions of the territory in the area within and adjacent thereto and as to the ability of the districts affected to meet the standards of recognition as prescribed by the Superintendent of Public Instruction, and shall take into consideration the division of funds and assets which will result from the change of boundaries and shall determine whether it is to the best interests of the schools of the area and the educational welfare of the pupils that such change in boundaries be granted, and in case non-high school territory is contained in the petition the normal high school attendance pattern of the children shall be taken into consideration. If the non-high school territory overlies an elementary district, a part of which is in a high school district, such territory may be annexed to such high school district even though not contiguous to the high school district. However, upon resolution by the county board of school trustees the secretary thereof shall conduct the hearing upon any boundary petition and present a transcript of such hearing to the trustees who shall base their decision upon the transcript, maps and information and any presentation of counsel.

At the hearing any resident of the territory described in the petition or any resident in any district affected by the proposed change of boundaries may appear in person

or by an attorney in support of the petition or to object to the granting of the petition and may present evidence in support of his position. At the conclusion of the hearing the county superintendent of schools as ex-officio member of the county board of school trustees shall within 30 days enter an order either granting or denying the petition and shall deliver to the committee of petitioners, if any, and any person who has filed his appearance in writing at the hearing and any attorney who appears for any person and any objector who testifies at the hearing and the county superintendent of schools of each county in which the territory or any district affected lies a certified copy of its order.

Within 10 days after service of such copy of the order, any person so served may petition for a rehearing and, upon sufficient cause being shown, a rehearing may be granted. The filing of a petition for rehearing shall operate as a supersedeas until the board enters its final order on such petition for rehearing.

When more than one county board of school trustees must act, the one hearing the petition shall after entering its final order send forthwith a certified copy of the transcript of the hearing and rehearing, if any, to the other county board who shall within 30 days conduct a hearing as provided in this section on the transcript and either grant or deny the request in the petition. (Amended by Act approved April 23, 1965.)

Sec. 7-7. *Administrative Review Act.* The decision of the county board of school trustees shall be deemed an "administrative decision" as defined in Section 1 of the "Administrative Review Act" and any resident who appears at the hearing or any petitioner or board of education of any district affected may within 35 days after a

copy of the decision sought to be reviewed was served by registered mail upon the party affected thereby apply for a review of such decision in accordance with the "Administrative Review Act", and all amendments and modifications thereof and the rules adopted pursuant thereto. The commencement of any action for review shall operate as a supersedeas, and no further proceedings shall be had until final disposition of such review. If the transcript of the hearing is required to be presented to another county board of school trustees the time within which a petition for review must be filed shall not begin to run until the decision of the county board of school trustees hearing the petition has been granted or denied by the county board of school trustees conducting a hearing on the transcript. The circuit court of the county in which the petition is filed with the county board shall have sole jurisdiction to entertain a petition for such review when only one county board of school trustees must act; however, if more than one county board of school trustees must act, the circuit court of the county in which the county board of school trustees conducted the hearing on the original petition shall have sole jurisdiction of the petition for such review. (Amended by Act approved August 24, 1965.)

Sec. 7-8. *Limitation on successive petitions.* No territory, nor any part thereof, which is involved in any proceeding to change the boundaries of a school district by detachment from or annexation to such school district of such territory, and which is not so detached nor annexed, shall be again involved in proceedings to change the boundaries of such school district for at least one year after final determination of such first proceeding.

## Administrative Review Act (Chapter 110)

AN ACT in relation to judicial review of decisions of administrative agencies. Approved May 8, 1945. L.1945, p. 1144.

*Be it enacted by the People of the State of Illinois, represented in the General Assembly:*

264. § 1. (Definitions.) For the purpose of this Act: "Administrative Agency" means a person, body of persons, group, officer, board, bureau, commission or department (other than a court, judge, or magistrate) of the State, or of any political subdivision thereof or municipal corporation therein, having power under law to make administrative decisions.

"Administrative decision" or "decision" means any decision, order or determination of any administrative agency rendered in a particular case, which affects the legal rights, duties or privileges of parties and which terminates the proceedings before the administrative agency. In all cases in which a statute or a rule of the administrative agency requires or permits an application for a rehearing or other method of administrative review to be filed within a specified time (as distinguished from a statute which permits the application for rehearing or administrative review to be filed at any time before judgment by the Administrative Agency against the applicant or within a specified time after the entry of such judgment), and an application for such rehearing or review is made, no administrative decision of such agency shall be final as to the party applying therefor until such rehearing or review is had or denied. However, if the particular statute permits an application for rehearing or other method

of administrative review to be filed with the administrative agency for an indefinite period of time after the administrative decision has been rendered (such as permitting such application to be filed at any time before judgment by the administrative agency against the applicant or within a specified time after the entry of such judgment), then the authorization for the filing of such application for rehearing or review shall not postpone the time when the administrative decision as to which such application shall be filed would otherwise become final, but the filing of the application for rehearing or review with the administrative agency in this type of case shall constitute the commencement of a new proceeding before such agency, and the decision rendered in order to dispose of such rehearing or other review proceeding shall constitute a new and independent administrative decision. If such new and independent decision consists merely of the denial of the application for rehearing or other method of administrative review, the record upon judicial review of such decision shall be limited to the application for rehearing or other review and the order or decision denying such application and shall not include the record of proceedings had before the rendering of the administrative decision as to which the application for rehearing or other administrative review shall have been filed unless the suit for judicial review is commenced within the time in which it would be authorized by this Act to have been commenced if no application for rehearing or other method of administrative review had been filed. On the other hand, if the rehearing or other administrative review is granted by the administrative agency, then the record on judicial review of the resulting administrative decision rendered pursuant to the rehearing or other administrative review may consist not only of the record of proceedings had before the admin-

istrative agency in such rehearing or other administrative review proceeding, but also of the record of proceedings had before such administrative agency prior to its rendering of the administrative decision as to which the rehearing or other administrative review shall have been granted. The term "administrative decision" or "decision" does not mean or include rules, regulations, standards, or statements of policy of general application issued by an administrative agency to implement, interpret, or make specific the legislation enforced or administered by it unless such a rule, regulation, standard or statement of policy is involved in a proceeding before the agency and its applicability or validity is in issue in such proceeding, nor does it mean or include regulations concerning the internal management of the agency not affecting private rights or interests. As amended by act approved Aug. 9, 1963. L.1963, p. 2687. Effective Jan. 1, 1964.

270. § 7. (Appearance of defendants.) In any action to review any final decision of any administrative agency, the agency shall appear by filing an answer consisting of a record of the proceedings had before it, or a written motion in the cause or a written appearance. All other defendants desiring to appear shall appear by filing a written appearance. Every appearance shall be filed within such time as shall be fixed by rule of the Supreme Court, and shall state with particularity an address where service of notices or papers may be made upon the defendant so appearing, or his attorney.

272. § 9. Pleadings and record on review.)

(a) Complaint.) The complaint shall contain a statement of the decision or part thereof sought to be reviewed. It shall specify whether the transcript of evidence if any,

or what portion thereof, shall be filed by the agency as part of the record. Upon motion of any defendant, or upon its own motion, the court may require of the plaintiff a specification of the errors relied upon for reversal.

(b) Answer.) Except as herein otherwise provided, the administrative agency shall file an answer which shall consist of the original or a certified copy of the entire record of proceedings under review, including such evidence as may have been heard by it and the findings and decisions made by it. By order of court or by stipulation of all parties to the review, the record may be shortened by the elimination of any portion thereof. If the complaint specifies that none or only a part of the transcript of evidence shall be filed as part of the answer and if the administrative agency or any other defendant objects thereto, the court shall hear the parties upon this question and make a finding as to whether all, or if less than all, what parts of the transcript shall be included in the answer. No pleadings other than as herein enumerated shall be filed by any party unless required by the court.

274. § 11. Scope of review). Every action to review any final administrative decision shall be heard and determined by the court with all convenient speed. The hearing and determination shall extend to all questions of law and of fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to any finding, order, determination or decision of the administrative agency shall be heard by the court. The finding and conclusions of the administrative agency on questions of fact shall be held to be prima facie true and correct.

Chapter 110A, Section 291, parts (b), (c) and (e).

(b) Service. The clerk shall promptly serve each defendant by mailing a copy of the summons by registered mail as provided in the Administrative Review Act. Not later than five days after the mailing of copies of the summons, the clerk shall file a certificate showing that he served the defendants by registered mail pursuant to the provisions of the Administrative Review Act.

(c) Appearance. The defendant shall appear not later than 35 days after the date the summons bears.

(d) Other Rules Applicable. Rules 181(b), 182(b), 183, and 184 shall apply to proceedings under the Administrative Review Act.

(e) Record on Appeal. The original copy of the answer of the administrative agency, consisting of the record of proceedings (including the evidence, if any) had before the administrative agency, shall be incorporated in the record on appeal unless otherwise ordered by the trial court.

## APPENDIX B

### TRIAL COURT OPINION
November 7, 1969

The Court: You have to be a resident of the area affected.

Mrs. Thompson: That's sure a new ruling then if I have to live in the district that's involved.

The Court: No, I just read you the case, Mam. The Motion to dismiss will be granted and only because you are not in the district.

(Seal of Supreme Court)

STATE OF OF ILLINOIS

Office of
Clerk of the Supreme Court
Springfield
62706

Justin Taft
Clerk

Telephone
Area Code 217
525-2035

March 18, 1970

Mrs. Margaret E. Thompson
Box 133
Hinsdale, Illinois

In re: Margaret E. Thompson appellant, vs. County Board of School Trustees of DuPage County, Illinois, et al., etc., appellees No. 42892

Dear Mrs. Thompson:

The Supreme Court today made the following announcement concerning the above entitled cause:

"The trial court dismissed plaintiff's complaint for Administrative Review on the ground that she lacked

standing to sue. No constitutional question is involved and on the Court's own motion the cause is transferred to the Appellate Court; Second District. The motion by appellant to incorporate in the record on appeal a certified copy of a certain bond issue resolution is also transferred."

Very truly yours,

*Justin Taft*
Clerk of the Supreme Court

JT:jae
cc:Wm. J. Hopf

(Filed April 16, 1970)

State of Illinois
Supreme Court—ss.

At a Term of the Supreme Court, began and held in Springfield, on Monday, the ninth day of March in the year of our Lord, one thousand nine hundred and seventy, within and for the State of Illinois.

Present: Robert C. Underwood, Chief Justice
Justice Walter V. Schaefer
Justice Daniel P. Ward
Justice Caswell J. Crebb
Justice Thomas E. Kluczynski
Justice John T. Culbertson, Jr.
Justice Marvin F. Burt

William J. Scott, Attorney General
Robert G. Miley, Marshal
Attest: Justice Taft, Clerk

BE IT REMEMBERED, that, to-wit: on the 18th day of March A.D. 1970, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said Court, had and entered of record, to-wit:

Margaret E. Thompson,
Appellant
No. 42892 vs.
The County Board of School Trustees of DuPage County, Illinois, Robert R. Kimbell, President, Merrill Gates Ex-Officio Secretary and County Superintendent of Schools and District Boundary Study Steering Committee, D. N. Metta, Chairman

* * * *

The County Board of School Trustees of DuPage County, Illinois, Robert R. Kimbell, President, Merrill Gates Ex-Officio Secretary and County Superintendent of Schools,
Appellees

Appeal from Circuit Court DuPage County 69-1805-G

And now, on this day, the Court having diligently examined and inspected the record and proceedings aforesaid as well as the briefs and argument filed herein, and now being fully advised in the premises is of the opinion, finds and adjudges that this Court has no jurisdiction on direct appeal in this case.

THEREFORE, it is ordered by the Court that this case be and the same is hereby transferred to the Appellate Court for the Second District of the State of Illinois, and the Clerk of this Court is directed to transmit the transcript and files herein with the order of this transfer to the Clerk of said Appellate Court.

I, JUSTIN TAFT, Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, do hereby certify that the foregoing is a true copy of the final order of the said Supreme Court in the above entitled cause of record in my office.

In Witness Whereof, I have hereunto subscribed my name and affixed the Seal of said Court this 9th day of April A.D. 1970.

*Justin Taft*

Clerk,

Supreme Court of the State of Illinois.

## APPENDIX C

(Seal Appellate Court, State of Illinois, Second District)

STATE OF ILLINOIS

APPELLATE COURT SECOND DISTRICT
Elgin, Illinois 60120

Howard K. Kellett
Clerk
312-695-3750

August 7, 1970

General No. 70-155

The Court Has This Day Entered The Following Order In The Case Of:

People of the State of Illinois Ex Rel. Margaret E. Thompson, vs. County Board of School Trustee, et al

This matter coming on for hearing on motions by County Board of School Trustees of DuPage County, Illinois, Merrill Gates, Ex-Officio Secretary and Superintendent, Educational Service Region, and Ray Page, Superintendent of Public Instruction, State of Illinois, appellees, to dismiss the Notice of Appeal of appellant herein, and objections thereto by appellant;

the Court, on it's own motion, orders appeal herein dismissed. Appeal dismissed.

Howard K. Kellett
Clerk

Margaret E. Thompson
Box 133
Hinsdale, Ill. 60521

Wm. V. Hopf
State's Attorney
Court House
Wheaton, Ill. 60187

Ralph J. Gust, Jr.
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Ralph Miller
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Chicago, Ill. 60602

Box 133
Hinsdale, Illinois 60521
January 28, 1971

State of Illinois
Appellate Court Second District
Elgin, Illinois 60120
Hon. Howard K. Kellett, Clerk

Re: In the Matter of Application of Elmer J. Hoffman, County Collector, for Judgment and Sale of Lands and Lots Delinquent in the Payment of Taxes for the year 1967-

ATTEN: Mr. C. F. Simmons

Dear Mr. Kellett:

I regret that I was out of the Country when your letter of January 12, 1971 arrived concerning my Petition for Appeal in the above cause, and I have just returned.

You are advised that I consulted the Office of the Supreme Court of Illinois concerning the proper procedures on filing this appeal, and although they did not advise who to serve copies of the appeal on, they impressed on me to Notify or serve with proof of service to them, all of the parties concerned.

You are further addvised that the Appellate Court was served pursuant to Supreme Court Rule 381. You will note that the Order entered does not name the Justices who participated in entering the Order so obviously I could not serve them separately. I contend that the Appellate Court Second District is a Nominal Respondent and need not reply unless they want to.

Furthermore, since I am alleging statutory non-compliance by the Appellate court and that your procedures and policies are interfering with my legal rights, and the Appellate Court is not subject to the Administrative Review Act, Common Law dictates that I Notify the Court. You see I can not say that the Appellate Court erred in Judgement because they have not made any judgement.

The Statutes not complied with are:

Chapter 37, Section 41, Illinois Revised Statutes.
Supreme Court Rule 368.

The first statute needs no further explanation from me since I did file a Motion to Reconsider on this statute, which would have to be considered a Petition for Redress

of Grievance against the Government guaranteed by the 1st Amendment of the Constitution of the United States, since there is no law or statute allowing such a Motion or Petition nor constitutionally can there be any laws made governing this inalienable right.

Your records will show that the Motion was denied.

It is my understanding, and you may tell me if I am wrong, that it is the policy of the Appellate Court Second District to enter their Mandates for you to transmit back to the Circuit Court after the 21 days for Petitioning for a rehearing has expired.

I believe that they have confused the *entering* of the Mandate which to me would be their final Order and include their Opinion, or Reasons and instructions or anything else that they wish to enter for you to transmit back to the Circuit Court, with the *issuance* of the Mandate which is nothing more than the transmitting of the Mandate to the Circuit Court. When you are supposed to automatically transmit the mandate after 21 days how can you do this when the mandate has not been entered?

It is my understanding that you have no such mandate on file in this case and that the Appellate Court will not enter one until the time arrives for transmitting this back to the Circuit Court. I contend that I can not petition for a rehearing on a final order that has not been entered nor on a dismissal of an appeal without reason.

I further contend that no other party can answer these allegations for the Appellate Court Second District, although it is not necessary for them to answer, it was necessary for me to serve the Petition on them so they could answer if they wanted to.

Now, since I was out of town and the 14 days for the Appellate Court to answer have elapsed, I feel that it some ways it is my fault that you did not understand that the Petitions which you have returned to me were actually served on the Appellate Court, should the Appellate Court desire to have the Petitions returned to them, and should they now care to answer, I will return them to you and I will not object if you do file an answer. Let me Know.

I have some other questions on other cases, to wit.

Do you have 8 copies of the Excerpts from the Record in Case no. 70-80, Margaret E. Thompson v. County Board of School Trustees, or at least 2 copies, and how much will it cost me for you to transmit these to the Supreme Court? I will be filing that Petition for appeal in the next week.

Has the Appellate Court *entered* their mandate in that case? If they have I would like to have a certified copy if it says one word different or more than the Opinion served on me.

I would also like to have a certified copy of the Order entered in Case No. 70-155, People of the State of Illinois Ex rel. Margaret E. Thompson v. County Board of School Trustees, et al., entered on August 7, 1970 by the Appellate Court as well as a certified copy of the Mandate entered and issued on or about September 9, 1970. If there is a fee for this service please let me know. I suggest that you take care with the dates for the reason that the fly sheet on the Order you sent me In the Matter of the Application of Elmer J. Hoffman, etc., 70-220, states that the Court met on December 1, 1969 and then you certify

that the order to dismiss was entered on November 17, 1970, which actually is true; however the order itself that you sent me was not entered and I could not get a certified copy from you. The same is true in case number 70-155, when I asked for a certified copy of the order so I could petition for a rehearing, I was told you did not have one.

There is one thing further that I would like to know, and that is does the Appellate Court want to give me a statement saying they do not want me to serve petitions and papers on them when I think the law says that they are a nominal respondent?

Although I have not finished my petition in Case no. 70-80, there is the distinct possibility that I will allege that the Appellate Court disposed of the evidence in Case No. 70-155 and then claimed that the cause was vague etc. I contend that to make such an allegation and not have the Supreme Court toss my Petition out that I would have to serve the Petition on the Appellate Court or else include a letter in the Petition from the Appellate Court saying they did not care to be served.

I trust that this answers yours questions as well as that of the court which you serve as to why the petitions were served on you. It is a pity that the procedures in the Courts have become so fouled up that I have to go through this whole rigamarole in order to have a case heard on its merit in the Trial Court.

Very truly yours,

Margaret E. Thompson
(Mrs. R. B. Thompson)

cc: Hon. Justin Taft

Will you please hold up my Petition from the Supreme Court until the Appellate Court Second District has an opportunity to answer should they care to do so and if this is possible?

70 155

UNITED STATES OF AMERICA

State of Illinois
Appellate Court—ss:
Second District

At a session of the Appellate Court, begun and held at Elgin, on the 1st day of December, in the year of our Lord one thousand nine hundred and sixty-nine, within and for the Second District of Illinois:

Present—Honorable Charles H. Davis, Presiding Justice
Honorable Mel Abrahamson, Justice
Honorable Thomas J. Moran, Justice
Howard K. Kellett, Clerk
Harry E. Booth, Sheriff

BE IT REMEMBERED, That, to wit: On the 7th day of August, A.D. 1970 certain proceedings were had and orders made and entered of record by said Court, among which is the following, viz:

People of the State of Illinois, Ex Rel Margaret E. Thompson, Appellant
70-155 vs.
County Board of School Trustees of DuPage County, Illinois, Merrill Gates, Ex-Officio Secretary and Superintendent, Educational Service Region, Ray Page, Superintendent of Public Instruction, State of Illinois, Board of Education, School District 53, Board of Education, School District 57, County Board of Supervisors of Du Page county, Illinois, Appellees

---

Appeal from the Circuit Court of DuPage County

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Now on this day come the County Board of School Trustees of DuPage county, Illinois, Merrill Gates, Ex-Officio Secretary and Superintendent, Educational Service Region, and Ray Page, Superintendent of Public Instruction,

appellees, by their attorneys, and move the Court to dismiss the Notice of Appeal filed on June 24, 1970, and submit therewith suggestions in support of said motions.

And also on this day comes the People of the State of Illinois, Ex Rel Margaret E. Thompson, Pro Se, appellant, and presents to the Court her objections to the motions of said appellees to dismiss the Notice of Appeal herein, together with reasons, suggestions and points and authorities, in support of said objections.

And the Court having duly considered the motions of said appellees, the objections of appellant thereto, as well as the matters and things alleged in support of said motions and objections, and being now fully advised in the premises;

It is therefore ordered by the Court, on it's own motion, that the appeal in the above entitled cause be and the same is hereby dismissed.

UNITED STATES OF AMERICA

State of Illinois,
Appellate Court,—ss.
Second District,
70-155

I, HOWARD K. KELLETT, Clerk of the Appellate Court, in and for said Second Judicial District of the State of Illinois, and the keeper of the Records and Seal thereof, do hereby certify that the foregoing is a true, full and complete certified copy of the final order of the said Appellate Court in the above-entitled cause of record in my office.

In Testimony Whereof, I have set my hand and affixed the seal of the said Appellate Court, in Elgin, in said State, this 22d day of July, A.D. 1971.

*Howard K. Kellett*
Clerk Appellate Court, Second District.

## APPENDIX D

### ADMINISRATIVE AGENCY DECISIONS

*Opinion of State Superintendent of Public Instruction*

June 14, 1966

Mr. Roy DeShane
County Superintendent of Schools
222 East Willow Ave.
Wheaton, Illinois

Dear Mr. DeShane:

I have your letter in which you have referred to the fact that there has been a situation existing in the Hinsdale High School, District #86, and an elementary district, whereby for many years the districts were nearly coterminous and the voters tended to elect the same individuals to both boards. The boards jointly hired the Superintendent and others of the administrative staff and apparently cooperated in maintaining the schools of both districts. As a matter of fact, they not only had interlocking boards but had joint meetings, each board having its separate minutes and only the members of the proper board would vote on its items of business. It is, of course, necessary to elect either one or two members from the unincorporated area in District #86, but in general the area has kept 5 or 6 individuals on both boards.

You have enclosed to me a letter to you dated May 4, 1966, from Mrs. R. B. Thompson and have asked that I answer her questions,—(1) Can two school districts join together to perform a single service such as a Unit District when the area of one district does not correspond with the service area of the other? and (2) Does not the Illinois Revised Statute of 1955 that says in essence, "In the absence of State Law a Special District is illegal and can

not function", still apply? and (3) How do we arrive at a legal functioning District #86 School Board with as little fan fare and disruption to the school as possible?

In my opinion, two school districts may not join together to perform a single service such as a Unit District when the area of one district does not correspond with the service area of the other. True, there is nothing in the School Code which prohibits a school board member from serving on each Board of Education as long as he has the necessary citizenship, residence and age requirements and is not a School Trustee or a school treasurer. However, I believe we have agreed many times that these questions are not decided upon whether or not it is authorized or whether it may be prohibited by general law,—that is, our Court decisions or perhaps even an Attorney General's Opinion.

I have always held to the opinion that where school districts cover the same territory, or partly the same territory; and where it is necessary or advisable that the boards of both districts must pass upon questions which concern the best interests of the schools of each district, then the duties of board members may not properly be performed without possible prejudice by men and women who are on both boards. Then under these circumstances the office of school board member of an elementary district is, in my opinion, incompatible with the office of school board member in a High School District. You have said that these districts have gone together and the boards have hired the same Superintendent and others of the administrative staff. They have even gone so far as to have joint meetings. It is certainly quite possible that board members having children in elementary schools might tend to favor the elementary district and those having children in high

school might tend to favor the high school district. There might be created in many instances differences of opinion as to the amount of funds needed, as to courses which should or should not be taught, as to teachers and their qualifications, as to new buildings or locations of sites. There are certainly many things on which the interests of the two boards might be different and each of the members might look at them in a different light.

In my judgment, school board members may not serve two masters. They should be loyal to and serve the school district in which they are elected to the board without being required to consider whether this same action is also best for the other district. I think their duties are incompatible and that no board member should be elected to serve on both boards at any time.

Neither can I agree that joint school board meetings should be held between the two boards or that action taken by such a joint meeting would be legal. You have advised that each board would take its own action and write up separate minutes, but if the votes of a bare majority of the members of the High School Board would tend to influence those on the grade school board, then it seems to me that the duties and obligations of the two boards are incompatible as well. If the two school boards wish to agree upon the use of a Superintendent or other members of an administrative staff, then I think they may do so. However, in my judgment, each board should arrive at the decision to use joint personnel in separate meetings with only the board members of each district in each case entering into the discussion and making the proper motions in order to give legal sanction to such an arrangement.

You have pointed out that an arrangement of joint board meetings could be considered in the same light as permitting private citizens to come to meetings and express their views. Perhaps the members of the other board would be in the same position as private citizens but particularly where they are the same members who serve on each board they could not be said to be present only in the capacity of citizens. In my judgment, a joint meeting has no legal basis and there is no legal authority for it.

Relative to the second question concerning the illegality of a special district, I presume Mrs. Thompson was referring to Article IV, Section 22 of the Constitution of 1870 providing that the General Assembly shall not pass local or special law "providing for the management of common schools . . . . granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever".

I do not believe this provision had reference to the situation about which you are inquiring, but rather that there be no more Special Charter districts organized.

Relative to question #3, it is my opinion that school board members should no longer file nominating petitions to serve on both boards and that probably those who have double representation should resign from one or the other of the boards, thereby permitting the appointment of new members to serve until the next regular election on the boards from which they have individually resigned. If this method is not agreeable to some of the board members, then it would be possible to have the matter tried out in Court by filing a proper complaint in Quo Warranto. Then there would be judicial determination as to whether or not the duties of these different board members are incompatible.

If the board members who are now serving do not wish to resign, but want to continue in their present capacities until the ends of their respective terms, it might be that it would be agreeable to be concerned that as the members' terms expire there be no further nominating petitions filed by them for more than one board and that new or different members for the other board be selected. If, in the meantime, no one files a Quo Warranto suit it is probable that the situation will clear itself up within three years. However, in my judgment, it is still not in the best interests of the boards or the educational programs of the children of the districts.

Yours very truly,

*N. E. Hutson*

N. E. Hutson, legal adviser

*Order of County Board of School Trustees*

July 9, 1969

Now this cause having come on for hearing under the provisions of Article 7 of The School Code and by virtue of petition filed with Merrill Gates, Ex-Officio Secretary of the County Board of School Trustees of DuPage County, Illinois, on the 10th day of June, 1969; and

The said Ex-Officio Secretary of said County Board having given notice of the presentation of said petition, in writing, to each Board of all districts involved in the proposed boundary change, a true copy of said notice being hereto attached, by reference made a part of this Order; and

The said Ex-Officio Secretary of said County Board having further caused a notice of the presentation of such petition to be published once at least 10 days but not more than 15 days before the hearing in the Downers Grove

Reporter and the Naperville Sun, newspapers having general circulation within the area of the territory involved in the proposed change of boundaries; and the return day having been fixed in accordance with said notices on July 7, 1969 and duly held, and a meeting of the County Board of School Trustees having been called for said return day by the President thereof by giving a 48 hour written notice of the meeting, stating the time and place of the meeting and the purpose thereof, and it appearing that said petition is in all respects in compliance with the law as to form and content and signatures thereon; and the Ex-Officio Secretary of said Board having submitted maps showing the districts involved, a report of financial and educational conditions of the districts involved, and the probable effects of the proposed changes to the school board affected and to members of the County Board of School Trustees not later than 5 days prior to the day upon which the hearing was held, and the Board having heard evidence as to the school needs and conditions of the territory in the area within and adjacent thereto and as to the ability of the districts to meet the standards of recognition as prescribed by the Superintendent of Public Instruction; and having taken into consideration any possible division of funds and assets which will result from the change of boundaries; and having taken into consideration whether it is to the best interests of the schools of the area and the educational welfare of the pupils that such change in boundaries be granted; and after the consideration of the aforesaid; and after the said Board being fully advised in the premises;

It is HEREBY ORDERED, ADJUDGED AND DECREED by the County Board of School Trustees of DuPage County, Illinois, that the petition be and it is hereby denied, and that the following territory, to wit:

> That part of Sections 22, 23, 26, 27, 34, and 35, Township 38 North, Range 10, East of the Third Principal Meridian, DuPage County, Illinois, more specifically described as follows: Commending at the intersection of the center lin of Hobson Road and the center line of the East Branch of the DuPage River for a place of beginning; thence Southerly along the center line of the said East Branch of the DuPage River to the intersection of the center line of the East Branch of the DuPage River and the South line of Sections 34 and 35; thence Easterly along the South lines of Sections 34 and 35 to the East line of said Section 35; thence North along the East line of Section 35 to the Northeast corner of said Section 35; thence Westerly along the North line of said Section 35 to the Westerly line of Woodridge Unit No. 2 extended southerly; thence Northerly along the West line of Woodridge Unit No. 2 and Woodridge Unit No. 1 to the intersection with the Indian Boundary Line; thence Northeasterly along said Indian Boundary Line approximately 2268.32 feet to the quarter section line of the Northeast quarter of Section 26; thence West along the quarter section line 463.32 feet; thence North parallel with the East line of said Section 26, a distance of 1320 feet to the center line of 71st Street; thence Westerly along the center line of 71st Street to the center line of U. S. Route #53; thence Northerly along the center line of U. S. Route #53 to the center line of Hobson Road; thence Westerly along the center line of Hobson Road to the place of beginning,

remain in Community High School District Number 107, DuPage County, Illinois

It is FURTHER ORDERED, ADJUDGED AND DECREED that Merrill Gates, Ex-Officio Secretary of said Board, be and he is hereby authorized and directed to deliver to the Committee of Petitioners, if any, and any person who has filed his appearance in writing at the hearing and any attorney who has appeared for any person and any objector who has testified at the said hearing and the County Superintendent of Schools of such county in which the territory or any districts lies, a certified copy of this Order, also make and file within thirty (30) days with the County Clerk of DuPage County a map of the districts involved.

Dated this 9th day of July, 1969.

County Board of School Trustees of
Du Page County, Illinois
*Robert R. Kimbell*

President

*Merrill Gates*

Ex-Officio Secretary

Resolution adopted on March 31, 1969 by District Boundary Study Steering Committee

March 6, 1969

To: Members, District Boundary Study Steering Committee

The Executive Sub-committee of the District Boundary Study Steering Committee recommends the following motions for consideration at the March 27, 1967 meeting:

I Motion to *accept* the report "A Consultant Study for the School Districts of Southern Du Page County, Illinois" by the Bureau of Field Services School of Education, Indiana University.

II Motion that the present executive subcommittee and elected officers form a permanent executive committee of the District Boundary Study Steering Committee and assume other responsibilities as directed by the general membership.

III Motion to authorize the executive committee to prepare an annual budget for submission and approval to the general membership.

IV Motion that the executive committee be authorized to form sub-committees and direct such committees as necessary according to the recommendations of the general membership.

V Motion directing the executive committee to forward copies of "A Consultant Study for the School Districts of Southern Du Page County, Illinois" to each of the members of the County Board of School Trustees and to form a sub-committee of five (5) members to meet with the County Board of School Trustees to discuss this report and to answer questions concerning the report.

VI Motion authorizing the executive committee to form a five (5) man public relations sub-committee and direct them to select, within a month, appropriate strategies for informing the general public regarding the survey contents and any recommendations of the District Boundary Study Steering Committee, and to execute such strategies upon approval of the general membership.

VII Motion directing the executive committee to form a five (5) man legislation sub-committee to itemize legislative recommendations of the District Boundary Study Steering Committee, and upon approval

of the general membership, forward such recommendations to the appropriate legislative bodies and individual legislators.

VIII Motion directing the executive committee to form a five (5) man sub-committee to identify, but not assess, important educational and financial factors in any boundary option.

IX Motion approving "Short Range Recommendation #1" under Recommendations for Action in *A Consultant Study in the School Districts of Southern DuPage County, Illinois* prepared by the Bureau of Field Services, School of Education, Indiana University "that the County Board of School Trustees freeze the present school district boundaries, until it is apparent there is substantial agreement on a plan for major adjustment of present boundaries and that the only exception would be in cases where there is concurrence on the part of the school boards involved.

D. N. Metta, Chairman
District Boundary Study Steering Committee

fwh

## APPENDIX E

70-80

UNITED STATES OF AMERICA

State of Illinois
Appellate Court—ss:
Second District

At a session of the Appellate Court, begun and held at Elgin, on the 7th day of December, in the year of our Lord one thousand nine hundred and seventy, within and for the Second District of Illinois:

Present—Honorable Thomas J. Moran, Presiding Justice
Honorable Mel Abrahamson, Justice
Honorable Glenn K. Seidenfeld, Justice

Howard K. Kellett, Clerk

Joseph C. Doring, Sheriff

BE IT REMEMBERED, that afterwards, to wit: On Dec 18 1970 the Opinion of the Court was filed in the Clerk's office of said Court, in the words and figures following, viz:

NO. 70-80

IN THE

APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

Margaret E. Thompson,

Plaintiff-Appellant,

vs.

County Board Of School Trustees Of Du Page County, Illinois, Robert R. Kimbell, President, Merrill Gates, Ex-Officio Secretary And County Superintendent of Schools,

Defendants-Appellees.

Appeal from the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

*Mr. Justice Abrahamson Delivered The Opinion Of The Court.*

The plaintiff appeals from orders of the Circuit Court of Du Page County that dismissed her complaint and amended complaint for administrative review of certain decisions of the DuPage County Board of School Trustees on the grounds that she did not have standing to bring suit.

Community High School District Number 107 (Naperville) and Community High School District Number 99 (Downers Grove) had filed a joint petition to detach certain territory from District 107 and annex it to District

99 pursuant to Article 7 of the School Code. After a hearing on the petition, the Board of School Trustees directed the County Superintendent to enter an order to deny the joint petition on July 7, 1969. On August 14, 1969, the Board entered a further order to permit a rehearing on the petition and, although the record is not clear on this point, it appears that the petition was then granted. It is agreed that both orders are deemed final administrative decisions as defined by Section 1 of the Administrative Review Act (Ill. Rev. Stats, 1969, Ch. 110, par. 264) and subject to review.

The amended complaint was brought by the plaintiff as an "objector" at the public hearings and as a resident of an adjacent district that would be affected by the decision. It is alleged that the joint petition had been filed pursuant to a recommendation made by a group called the "South DuPage County Boundary Study Steering Committee" and was but a part of a comprehensive plan to change the boundaries of all school districts in southern DuPage County. The amended complaint further alleged

> "That on information and belief the agreed on boundary changes made commitments affecting the taxing ability, the bonded indebtedness, the equality of monies expended on education per pupil, zoning, town or village boundaries and real estate taxes in both School District Number 53, Butler, and School District Number 86, Hinsdale Township High School wherein plaintiff resides."

The amended complaint sought an administrative review of the decisions of the Board and a finding that certain sections of the School Code are unconstitutional. The case was originally brought directly to the Supreme Court but was transferred to this Court with a ruling that no constitutional questions were involved.

Section 7-7 of the School Code (Ill. Rev. Stats, 1969 Ch. 122, Sec. 7-7) provides for the review of final administrative decisions of the board of school trustees as follows:

> "The decision of the county board of school trustees shall be deemed an "administrative decision" as defined in Section 1 of the "Administrative Review Act" and any resident who appears at the hearing or any petitioner or board of education of any district affected may within 35 days after a copy of the decision sought to be reviewed was served by registered mail upon the party thereby apply for a review of such decision in accordance with the "Administrative Review Act", and all amendments and modifications thereof and the rules adopted pursuant thereto . . . "

The right to administrative review is "limited and circumscribed by the statute or statutes authorizing such review." Stirniman v. County Board of School Trustees, 26 Ill. App. 2nd 245, 249.

The record does establish that the plaintiff did personally appear at the hearings before the Board and voice her objections to the proposed boundary changes and the procedures followed by the school authorities. It also appears that a certified copy of the decision of July 7 was furnished the plaintiff by registered mail and that notice was given to her of the order for a rehearing. The pleadings also establish, as we have seen, that plaintiff was not a resident of either District 107 or 99 but that she was a resident of District 86 at the time the decision was rendered.

The appellee contends that Section 7-7 limits the right of review of a decision involving a boundary change to a petitioner, a board of education of an affected district, or a resident of the territory directly involved in the change of boundaries. Section 7-6 provides, however, that at the hearing held pursuant to a petition for a change of

boundaries ". . . any resident of the territory described in the petition or any resident in any district affected by the change of boundaries may appear . . . ." and object to the petition and offer evidence in support of the objections. (Ill. Rev. Stats., 1969, Ch. 122, sec. 7-6). It would be inconsistent to permit a resident of an affected district to object at a hearing and offer evidence and then to preclude his right to a judicial review of the ultimate decision.

However, the amended complaint before us utterly fails to establish that the decisions of July 7 or August 14 in any way affected the districts in which the plaintiff resides. The allegations that the proceedings of the "Boundary Study Steering Committee" included "the intent of detaching further territory from school district 86 and possibly from school district 53 causing tax losses to both district . ." are far too vague and conjectural to establish the right to bring this suit. Actions brought under the Administrative Act are subject to the provisions of the Civil Practice Act (Ill. Rev. Stats, 1969, Ch. 110, sec. 277) and are subject to be stricken if they fail to establish a cause of action.

It also appears that the plaintiff has failed to join all the necessary parties as required by section 271 of the Administrative Review Act (Ill. Rev. Stats, 1969, Ch. 110, sec. 271). Those requirements are mandatory and the failure to join all parties "of record to the proceedings before the administrative agency . ." would of itself have been grounds for dismissal of the complaint. Babington v. County Board of School Trustees, 7 Ill. App. 2d 193, 194.

For the reasons stated, the order of dismissal entered by the trial court was proper and will be affirmed.

Judgment Affirmed.

Moran and Seidenfeld, JJ., concur.

Certificate of Howard K. Kellett, Clerk.

**Final judgment of Supreme Court of Illinois, dated March 30, 1971.**

And now on this day the Court having duly considered the Petition for Leave to Appeal herein and being now fully advised of and concerning the premises, doth overrule the prayer of the petition and denies Leave to Appeal herein.

**Reconsideration denied by Supreme Court of Illinois May 20, 1971.**

And now, on this day, the Court having duly considered the motion by petitioner for reconsideration of the order denying petition for appeal as a matter of right, together with the supplement to said motion, and being fully advised of and concerning the premises;

It Is Hereby Ordered that the motion by petitioner for reconsideration of the order denying petition for appeal as a matter of right be, and the same is, denied.

Be It Remembered, That to wit: On the 18th day of December, A.D. 1970 certain proceedings were had and orders made and entered of record by said Court, among which is the following, viz:

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Margaret E. Thompson, Appellant

70-80 vs.

County Board of School Trustees of DuPage County, Illinois, Robert R. Kimbell, President, Merrill Gates, Ex-Officio Secretary and County Superintendent of Schools, Appellees

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Appeal from the Circuit Court of DuPage county

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On this day came again the said parties, and the Court, having diligently examined and inspected, as well the

record and proceedings aforesaid, as the matters and things therein assigned for error, and being now sufficiently advised of and concerning the premises, finds that neither in the record and proceedings aforesaid, nor in the rendition of the orders aforesaid, is there anything erroneous, vicious or defective, and that in said record there is no error.

Therefore, it is considered by the Court that the order of dismissal entered by the trial court, be and the same is hereby affirmed.

And it is further ordered by the Court that the said appellees recover of and from the said appellant, their costs by them in this behalf expended, to be taxed, and that they have execution therefor.

## APPENDIX F

State of Illinois,
County of Du Page—ss

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT, DU PAGE COUNTY, ILLINOIS

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CLEM STEIN, JR., MARION L. STEIN, et al.
Plaintiffs

v.

THE COUNTY BOARD OF SCHOOL TRUSTEES, OF DU PAGE COUNTY, et al.
Defendants

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NO. 66-456-6 — App. NO. 66-153

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Petition remanded by the Court to be heard on its Merit. Supreme Court Opinion, 40 Ill. 2d, 477, commonly called,

Ginger Creek Petition. Rehearing frozen by Boundary Study Committee. This case was denied on a vote of a majority of three also on April 7, 1970, so it is also waiting to see if the County Board of School Trustees can make a final decision on a 3-2 vote.

ORDER

This cause coming on for hearing on motion of The County Board Of School Trustees Of Du Page County for entry of an order in compliance with mandate of the Appellate Court, the Court having jurisdiction and being fully advised in the premises;

It Is Hereby Ordered that this cause be and hereby is remanded to The County Board Of School Trustees Of Du Page County and that said County Board be and hereby is directed to take such action as it may deem proper with reference to ruling on the petition for rehearing, filed on July 16, 1965, by certain defendants herein, contesting the propriety of said County Board's order dated July 8, 1965, with reference to the merit of the cause and that said County Board be and hereby is directed to exclude from its consideration the jurisdictional question which has been determined by the Appellate Court.

It Is Further Ordered that plaintiffs shall recover of and from defendants, their costs, by them in this behalf expended, to be taxed, and that they have execution therefor, except as against the County Board of School Trustees of Du Page County, Board of Education of Downers Grove Elementary School District No. 58 and Board of Education of Downers Grove High School District No. 98, Du Page County, Illinois, said costs to be paid in due course of law, and that said costs shall be divided equally

among the County Board of School Trustees of Du Page County, Board of Education of Downers Grove Elementary School District No. 58 and Board of Education of Downers Grove High School District No. 98, Du Page County, Illinois.

Enter: .....

JUDGE

Dated: January 20, 1969